IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3045 OF 2006
IN
CRI.APPEAL NO. OF 2006

Shri.Vasant Sakharam Taklekar ..Applicant

Vs.

Shri.Charakant Bhagoji
Ghayale and Ors. ..Respondents

...

Mr.Rajaram Deshmukh for Mr.Vilas B.Tapkir advocate for applicant
Mrs.A.S.Pai A.P.P. for the State

...

CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : NOVEMBER 27, 2007

P.C.

1. The applicant has filed this application for leave to file appeal against the judgment and order dated 8.5.2006 passed by the learned Judicial Magistrate F.C. Pali in RCC No. 16 of 2004. By the said judgment and order, the learned Magistrate acquitted the Respondents nos. 1 to 7 of the offences under Sections 380, 426, 447, 504 and 506 r.w. 34 of the IPC.

2. Heard the learned advocate for the applicant. I have perused the judgment and order and the

evidence produced by the learned advocate for the applicant.

3. It is the prosecution case that on 16.12.2002 there was a meeting of trustees of the temple. At that time, respondent nos.1 to 3 came there and they abused, threatened and assaulted the members who were present in the meeting. Thereafter, they took away loudspeaker, mike and table with them. The offence is committed against a public trust. Thus, it is the case of the prosecution that the accused persons came when six members were present in the meeting of the trust and abused, threatened and assaulted the witnesses and thereafter took away with them loudspeaker, mike and table. As far as taking away of the articles is concerned, P.W.2 who is Vice Chairman of the Trust has admitted in his cross-examination that the loudspeaker, mike and table are still in possession of the Trust. In such case, doubt is raised in the mind in respect of the respondents-accused taking away the said articles.

4. As far as assault is concerned, it is an admitted fact that no medical certificate is on

record. As far as threats and abuses are concerned, though complainant has deposed on this aspect but there is material discrepancy in his evidence and the evidence of other witnesses. There is major discrepancy in respect of who has abused, who has assaulted and who has robbed articles. Looking to the evidence, the learned Magistrate has acquitted the respondents-accused. The view taken by the learned Magistrate is a reasonable and possible view.

5. It is well settled that if the view of acquittal could have been reasonably arrived at then the mere circumstance that the appellate Court would have taken a different view, would be no ground to interfere. In this connection, there is no dearth of authorities but to eschew prolixity, I am referring to only two of them i.e. **AIR 1971 S.C. 66 Khedu Mohton and Ors. Vs. State of Bihar and C. Anthony Vs. K.G.Raghavan Nair (2003) 1 SCC 1.** In the case of **C.Anthony**, the Supreme Court has observed that unless the findings of the trial Court are perverse or contrary to the material on record, the High Court cannot in appeal substitute its findings, merely because another contrary

opinion was possible on the basis of material on record. As stated earlier, the view taken by the learned Magistrate is a reasonable and possible view, hence, no interference is called for.

6. In this view of the matter, application for leave to appeal is rejected. Consequently, appeal stands dismissed.

[SMT. V.K.TAHILRAMANI,J.]